

*Press Release of 28 March 2022*

## ALL ADOPTED CHILDREN HAVE THE RIGHT TO RELATIONAL BONDS WITH THE FAMILY OF THE ADOPTIVE PARENT

The family relationships established by virtue of adoption must be recognised for all adopted children: this is the core argument of the decision of the Court, which is essentially based on the protection of the interests of the child. In cases classified as “adoption under special circumstances”, an adopted child has the status of a son or daughter. As such, he or she cannot be deprived of relational bonds with other family members, which the legislator sought to guarantee when enacting the reform of the law on filiation to all children under equal conditions. The Court stated that this is necessary in order for all children to grow up in a stable environment enjoying the protection afforded by family bonds, starting from those with the closest family members, such as siblings and grandparents. Any failure to recognise the family bonds existing with the relatives of the adoptive parent would be tantamount to rejecting the child’s identity as established by his or her membership of a new network of family relations, which *de facto* stably shape the child’s everyday life.

This is the core reasoning adopted by the Constitutional Court in [judgment no. 79](#) filed today (Judge Rapporteur Emanuela Navarretta), previously announced in the [press release of 24 February 2022](#). The Court declared Article 55 of Law no. 184 of 1983 unconstitutional – with reference to Articles 3, 31 and 117(1) of the Constitution, the last-mentioned provision in relation to Article 8 ECHR – insofar as it required the rules laid down by Article 300(2) of the Civil Code (which concern the adoption of adults) to be applied to children adopted “under special circumstances”.

Ultimately, the Court held that such a significant aspect for the growth and stability of a young child could not be regulated simply by a reference to the provisions applicable to the adoption of adults. This is because these latter rules are permeated by requirements pertaining strictly to financial interests and inheritance rights.

The Court’s ruling thus sought to give effect – in accordance with the Constitution and also in line with the European Convention on Human Rights – to the protection offered to many children by the institute of “adoption

under special circumstances”: orphaned children; disabled orphans; abandoned or semi-abandoned children, who are not eligible for “adoption with legitimising effect”; children living within the new nuclear family of the biological parent; and children recognised as having an interest in maintaining affective relationships that have already *de facto* been established and consolidated with a cohabitee or partner of the same sex as the biological parent.

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